

under the Due Process Clause and/or the Tennessee Inverse Condemnation Statute, Tenn. Code Ann. §29-16-101 et seq.

4. The property owned by Plaintiff has been rendered useless by overbroad regulations imposed by the defendant, the Metropolitan Government of Nashville and Davidson County, Tennessee (“Defendant”).
5. Venue is proper in this county, as the subject property is located in Davidson County. Tenn. Code Ann. §20-4-107.

PARTIES

6. Plaintiff is a Tennessee limited liability company and the owner of certain real property located on Miami Avenue within the geographic jurisdiction of Defendant, commonly known as 2601, 2603, 2605, 2607, 2609 and 2611 Miami Avenue, Nashville, Tennessee (collectively the “Property”). The Property is also known as tax parcels 052-13-0-020.00, 052-13-0-019.00, 052-13-0-018.00, 052-13-0-017.000, 052-13-0-016.00 and 052-13-0-015.00.
7. Defendant is a consolidated city and county local government organized under the laws of the State of Tennessee, exercising zoning and land use planning jurisdiction within its geographical area.

ALLEGATIONS

8. As a result of arbitrary and confiscatory regulations, Defendant has illegally and unconstitutionally deprived Plaintiff of the value of the Property.
9. The six properties are zoned CL, commercial limited, and intended for retail, consumer service, financial, restaurant and office uses.

10. As of the date of this Complaint, the vast majority of the Property is completely covered by a FEMA designated floodway, or by the 50 and 25 foot “buffer zones”.
11. Metropolitan Ordinance 15.64.170 (the “Floodway Ordinance”) prevents all new construction of commercial structures within the designated floodways. There are exceptions to the ordinance for items like temporary non-habitation structures and athletic fields in certain circumstances.
12. The Floodway Ordinance is more restrictive than FEMA regulations, as FEMA regulations permit construction within Floodways so long as certain requirements are met, in contrast to a complete ban on construction imposed by Defendant.
13. Portions of the Property near Miami Avenue are located within the Zone 1 buffers established by the Metro Stormwater Management Regulations §6.10.2 (the “Buffer Zones”). “Zone 1 Buffers” are a “no disturb zone” where the vegetation cannot be disturbed, removed or replanted unless a buffer restoration plan has been approved” by the Department of Water and Sewage Services. Construction is not permitted in Zone 1 without a variance.
14. Portions of the Property near Miami Avenue are located within the Zone 2 buffers established by the Metro Stormwater Management Regulations §6.10.2. “Zone 2 can consist of managed vegetation, meaning the buffer zone can be disturbed and planted with grass or other vegetation. However, no structures or impervious surfaces shall be placed in Zone 2” buffers.
15. Every portion of the Property is located either within the Floodway, Zone 1 Buffer or Zone 2 Buffer, rendering the Property unbuildable. Attached hereto as “Exhibit A” is a diagram

depicting Plaintiff's proposed building plan in relation to the Floodway, Zone 1 and Zone 2 Buffers.

16. The economic impact of the regulations on the Property deprives Plaintiff of any remaining beneficial use by virtue of the inability to construct anything on the Property. The Plaintiff anticipated that the land could be used for construction purposes and further, that exceptions to the regulations applied to the Property. Plaintiff further believed that the Metropolitan Stormwater Commission could grant variances to existing regulations.
17. In 2022, Plaintiff's counsel contacted the Metropolitan Stormwater Division to inquire about a variance from the Buffer Zones and Floodway Ordinance. Plaintiff's counsel was advised by Stormwater and the Metropolitan Legal Department ("Metro Legal") that Plaintiff's proposed plan could not be constructed due to the Floodway Ordinance. Further, Metro Legal advised that the Stormwater Commission could not grant a variance to the Floodway Ordinance. A copy of the referenced correspondence between Plaintiff's counsel and Stormwater/Metro Legal are attached hereto as "Exhibit B".
18. The Plaintiff anticipated that the Property could be used and would certainly have beneficial economic use. The enforcement of the Floodway Ordinance and Buffer Zones frustrates and interferes with the distinct investment backed by the expectation of Plaintiff.
19. Defendant acted without regard to the constitutional rights of Plaintiff, and in violation of the Fifth Amendment to the US Constitution and Article I, §21 of the Tennessee Constitution.
20. The enforcement of the Buffer Zones and Floodway Ordinance deprive Plaintiff of the use and enjoyment of the land and has the effect of inversely condemning the Property within the meaning of Tenn. Code. Ann. §29-16-123.

21. The result is a total loss of the value of the Property, inasmuch as there is no place on any portion of the Property for construction of any type, commercial or residential. There is no other economically viable use for the Property.

RELIEF REQUESTED

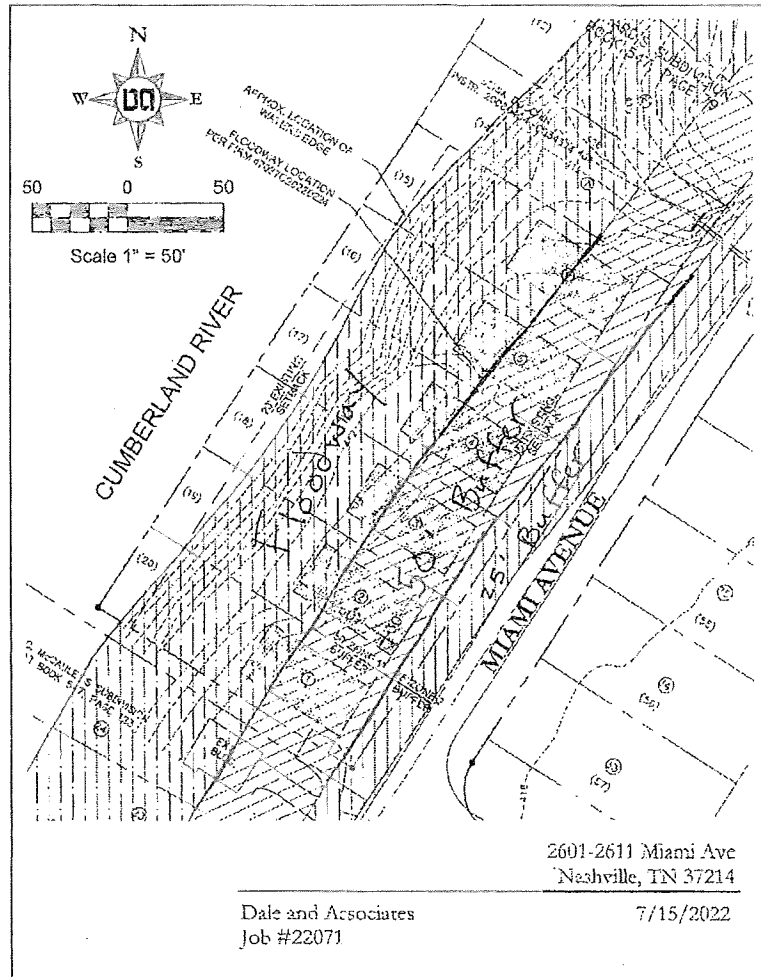
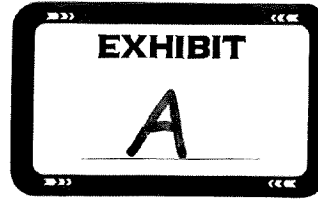
The Plaintiff, Miami Land Company, LLC, requests the following relief:

1. A judgment awarding compensation in an amount to be determined at trial, but not less than Two Million Five Hundred Thousand and No/100 Dollars (\$2,500,000.00), for regulatory taking in violation of the Takings Clause of the Fifth Amendment to the United States and/or Tennessee Constitutions;
2. Reasonable attorneys' fees and expert witness fees for initiating and maintaining this action under Tenn. Code Ann. §29-16-123 and USC §1988;
3. Costs of this suit pursuant to Tenn. Rules. Civ. Pro. Rule 54(d); and
4. Any other further general relief this Court deems just and proper.

Respectfully submitted,

SoBro Law Group, PLLC

/s/ Adam G. LaFevor
Adam G. LaFevor (BPR #030790)
101 Lea Avenue
Nashville, TN 37210
(P) 615-988-9911
(F) 615-988-99252
alafevor@sobrolaw.com





Adam Lafevor

From: Costonis, Theresa (Legal) <Theresa.Costonis@nashville.gov>
Sent: Wednesday, December 14, 2022 12:28 PM
To: Adam Lafevor; Bowman, Logan (WS)
Cc: Ladd, Tara (Legal); Palko, Tom (WS); Lindsey, Roger (WS)
Subject: RE: Variance

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

No, that is not what I meant. I just meant only council can change the Metro Code via legislation. The Stormwater Management Committee does not have authority to grant a variance deviating from the Metro Code.

From: Adam Lafevor <adam@sobrolaw.com>
Sent: Thursday, December 8, 2022 10:33 AM
To: Costonis, Theresa (Legal) <Theresa.Costonis@nashville.gov>; Bowman, Logan (WS) <Logan.Bowman@nashville.gov>
Cc: Ladd, Tara (Legal) <Tara.Ladd@nashville.gov>; Palko, Tom (WS) <Tom.Palko@nashville.gov>; Lindsey, Roger (WS) <Roger.Lindsey@nashville.gov>
Subject: RE: Variance

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For clarity, the only way to receive an official denial of the request is to petition council?

Adam G. LaFavor
 MEMBER



SOBRO LAW GROUP, PLLC
 101 LEA AVENUE
 NASHVILLE, TN 37210
 (P) 615-988-9911 (F) 615-988-9922

www.sobrolaw.com

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to the sender and deleting this copy and the reply from your system.
Thank you for your cooperation.

From: Costonis, Theresa (Legal) <Theresa.Costonis@nashville.gov>
Sent: Thursday, December 8, 2022 9:15 AM
To: Bowman, Logan (WS) <Logan.Bowman@nashville.gov>; Adam Lafevor <adam@sobrolaw.com>
Cc: Ladd, Tara (Legal) <Tara.Ladd@nashville.gov>; Palko, Tom (WS) <Tom.Palko@nashville.gov>; Lindsey, Roger (WS) <Roger.Lindsey@nashville.gov>
Subject: RE: Variance

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The Stormwater Management Committee has authority only to grant variances from the provisions of the regulations (e.g., the Stormwater Management Manual), and not from the provisions of the Metropolitan Code itself. The only way to change the application of Code provisions is for Council to do so by ordinance.

Please see Metropolitan Code Section 15.64.100.A.3. which provides as follows:

An applicant may request a variance from the regulations established in the Metropolitan Government of Nashville and Davidson County Stormwater Management Manual, Volume 1 - Regulations, by submitting a completed application to appear before the committee. A filing fee in the amount established pursuant to Section 15.64.215 shall be charged to each applicant payable to metro water services.

From: Bowman, Logan (WS) <Logan.Bowman@nashville.gov>
Sent: Thursday, December 8, 2022 6:59 AM
To: Adam Lafevor <adam@sobrolaw.com>
Cc: Costonis, Theresa (Legal) <Theresa.Costonis@nashville.gov>; Ladd, Tara (Legal) <Tara.Ladd@nashville.gov>; Palko, Tom (WS) <Tom.Palko@nashville.gov>; Lindsey, Roger (WS) <Roger.Lindsey@nashville.gov>
Subject: RE: Variance

Adam,

We will need to discuss with Ms. Costonis and Ms. Ladd at Metro Legal to see if this is something they can provide.

Logan Bowman, EI
MWS Development Services
800 President Ronald Reagan Way Nashville, TN
Office- 615-862-6038
Cell- 615-574-1492
Certified Floodplain Manager

Water, sewer, and stormwater plans can be submitted online at <https://mws.nashville.gov>.
Please have the design engineer email MWS.EPlanRev@nashville.gov to obtain a Username and Password, or to ask any questions.

COPY

Development Services will begin requiring all grading, public water, public sewer, and private utility permit submittals to be submitted as a digital (PDF) copy via the MWS FTP plan submittal portal. See <https://www.nashville.gov/Water-Services/Developers.aspx> to access the portal and create an account

From: Adam LaFavor <adam@sobrolaw.com>
Sent: Wednesday, December 7, 2022 4:01 PM
To: Bowman, Logan (WS) <Logan.Bowman@nashville.gov>
Subject: RE: Variance

Attention: This email originated from a source external to Metro Government. Please exercise caution when opening any attachments or links from external sources.

Logan,

They are seeking a variance from the Metro Code. If it is not possible, we need something official from Stormwater stating that the plan cannot be achieved due to the ordinance. Please let me know if you need any additional information.

Thank you,
Adam

Adam G. LaFavor
MEMBER



SOBRO LAW GROUP, PLLC
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NASHVILLE, TN 37210
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Thank you for your cooperation.

From: Bowman, Logan (WS) <Logan.Bowman@nashville.gov>
Sent: Wednesday, December 7, 2022 3:46 PM

COPY

To: Adam Lafavor <adam@sobrolaw.com>
Subject: RE: Variance

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At a minimum before we meet I want the following from Dale and Associates:

1. No structures shown in the floodway. They cannot build new structures in the floodway per 15.64.170 of the Metropolitan Code.
2. Setback shown per Zoning.
3. Correct FEMA FIRM panel shown.
4. BFE listed and FFE listed on each home.
5. I assume one of their Civil Engineers is involved?

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800 President Ronald Reagan Way Nashville, TN
Office- 615-862-6038
Cell- 615-574-1492
Certified Floodplain Manager

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Development Services will begin requiring all grading, public water, public sewer, and private utility permit submittals to be submitted as a digital (PDF) copy via the MWS FTP plan submittal portal. See <https://www.nashville.gov/Water-Services/Developers.aspx> to access the portal and create an account

From: Adam Lafavor <adam@sobrolaw.com>
Sent: Wednesday, December 7, 2022 3:23 PM
To: Bowman, Logan (WS) <Logan.Bowman@nashville.gov>
Subject: RE: Variance

Attention: This email originated from a source external to Metro Government. Please exercise caution when opening any attachments or links from external sources.

Logan,

Attached is their raw conceptual for the structures. The plan was to have small hotels, with river access. Evidently, there used to be a hotel and small marina there. Please let me know when you have time to meet.

COPY

Thank you,
Adam

Adam G. LaFevor
MEMBER



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Thank you for your cooperation.

From: Bowman, Logan (WS) <Logan.Bowman@nashville.gov>
Sent: Thursday, November 10, 2022 7:05 AM
To: Adam Lafevor <adam@sobrolaw.com>
Subject: RE: Variance

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Once they get some plans developed (even if just conceptual) then we will need have a preapplication meeting.

Logan Bowman, EI
MWS Development Services
800 President Ronald Reagan Way Nashville, TN
Office- 615-862-6038
Cell- 615-574-1492
Certified Floodplain Manager

COPY

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Development Services will begin requiring all grading, public water, public sewer, and private utility permit submittals to be submitted as a digital (PDF) copy via the MWS FTP plan submittal portal. See <https://www.nashville.gov/Water-Services/Developers.aspx> to access the portal and create an account

From: Adam Lafavor <adam@sobrolaw.com>
Sent: Thursday, November 10, 2022 7:02 AM
To: Bowman, Logan (WS) <Logan.Bowman@nashville.gov>
Subject: Re: Variance

Attention: This email originated from a source external to Metro Government. Please exercise caution when opening any attachments or links from external sources.

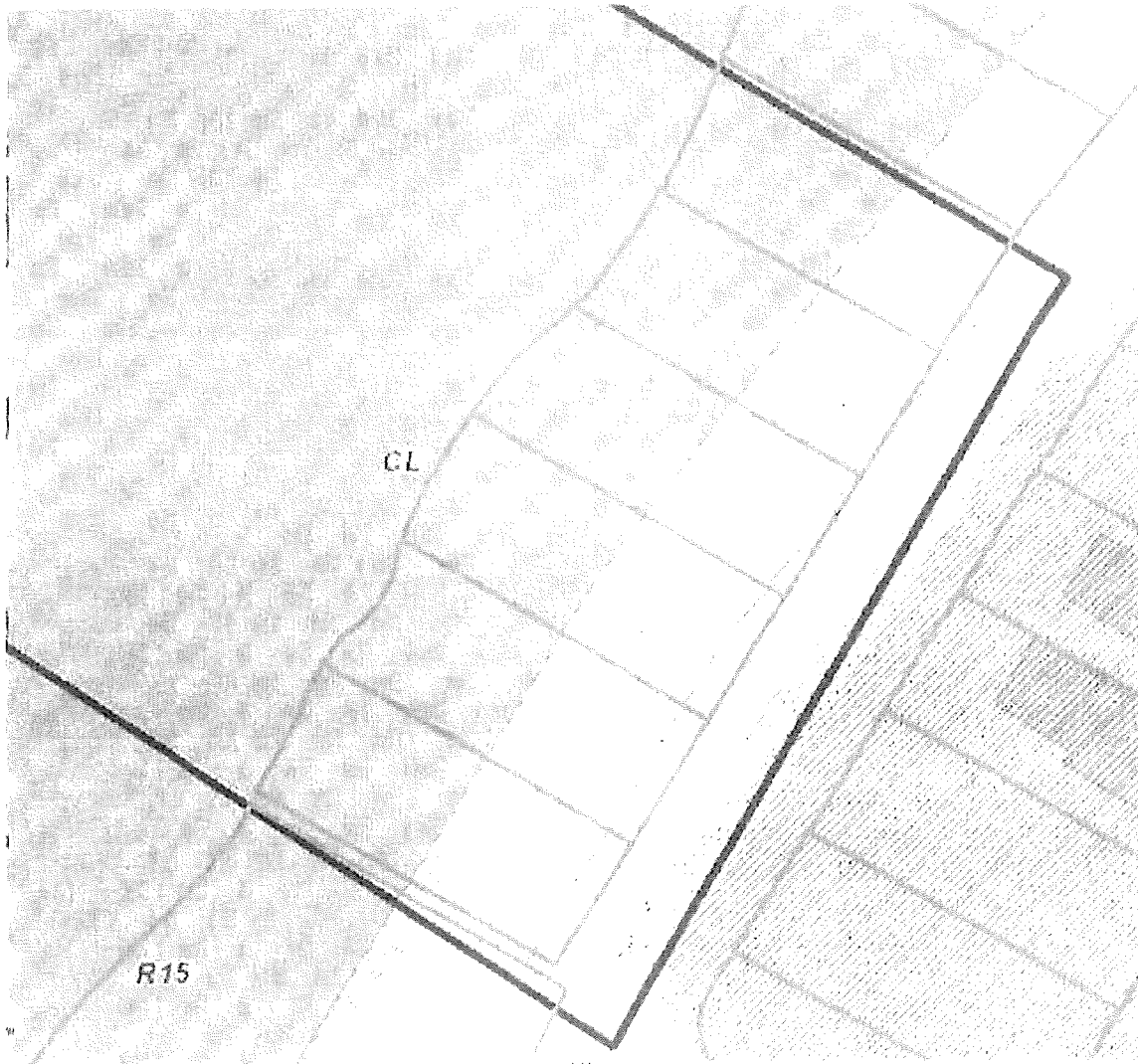
Correct, those are the lots.

Sent from my iPhone

On Nov 10, 2022, at 6:24 AM, Bowman, Logan (WS) <Logan.Bowman@nashville.gov> wrote:

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Looks like maybe these owned by Miami Land, LLC?



From: Adam LaFevor <adam@sobrolaw.com>
Sent: Wednesday, November 9, 2022 4:55 PM
To: Bowman, Logan (WS) <Logan.Bowman@nashville.gov>
Subject: RE: Variance

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It's for 6 commercial properties on the river on Miami Ave. in the Pennington Bend area. I don't have the exact addresses available right now.

Adam G. LaFevor
MEMBER



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NASHVILLE, TN 37210
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From: Bowman, Logan (WS) <Logan.Bowman@nashville.gov>
Sent: Wednesday, November 9, 2022 3:47 PM
To: Adam Lafavor <adam@sobrolaw.com>
Subject: RE: Variance

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Adam,

Application and checklist at:

https://www.nashville.gov/sites/default/files/2022-06/2022_SWMC_Application_Checklist_06172022.pdf?ct=1656333920

What property is this for?

Logan Bowman, EI
MWS Development Services
800 President Ronald Reagan Way Nashville, TN
Office- 615-862-6038
Cell- 615-574-1492
Certified Floodplain Manager

Water, sewer, and stormwater plans can be submitted online at
<https://mws.nashville.gov>. Please have the design engineer email

MWS.EPlanRev@nashville.gov to obtain a Username and Password, or to ask any questions.

Development Services will begin requiring all grading, public water, public sewer, and private utility permit submittals to be submitted as a digital (PDF) copy via the MWS FTP plan submittal portal. See <https://www.nashville.gov/Water-Services/Developers.aspx> to access the portal and create an account

From: Adam Lafevor <adam@sobrolaw.com>
Sent: Wednesday, November 9, 2022 1:15 PM
To: Bowman, Logan (WS) <Logan.Bowman@nashville.gov>
Subject: Variance

Attention: This email originated from a source external to Metro Government. Please exercise caution when opening any attachments or links from external sources.

Logan,

I need to submit a variance request from a zone 2 buffer. However, I cannot locate a form on the website to request a hearing on the variance. Is there a form that you know of for this?

Thank you,
Adam

Adam G. LaFevor
MEMBER



SoBro LAW GROUP, PLLC
101 LEA AVENUE
NASHVILLE, TN 37210
(P) 615-988-9911 (F) 615-988-9922

www.sobrolaw.com

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Thank you for your cooperation.

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FILED 01/24/23 11:35 AM CASE NO. 23C175 Joseph P. Day, Clerk

CIRCUIT COURT SUMMONS

NASHVILLE, TENNESSEE

Service ID 339344

STATE OF TENNESSEE
DAVIDSON COUNTY
20TH JUDICIAL DISTRICT

MIAMI LAND LLC

Plaintiff

vs.

METROPOLITAN GOVERNMENT OF NASHVILLE AND
DAVIDSON COUNTY TENNESSEE
1 PUBLIC SQUARE, SUITE 108
DEPARTMENT OF LAW
NASHVILLE, TN 37201

Defendant

CIVIL ACTION
DOCKET NO. 23C175
Method of Service:
Certified Mail

To the above named Defendant:

You are summoned to appear and defend a civil action filed against you in the Circuit Court, 1 Public Square, Room 302, P.O. Box 196303, Nashville, TN 37219-6303, and your defense must be made within thirty (30) days from the date this Summons is served upon you. You are further directed to file your defense with the Clerk of the Court and send a copy to the Plaintiff's attorney at the address listed below.

In case of your failure to defend this action by the above date, judgment by default will be rendered against you for the relief demanded in the Complaint.

ISSUED: 01/24/2023

JOSEPH P. DAY
Circuit Court Clerk
Davidson County, Tennessee

By: 

Deputy Clerk

ADDRESS OF PLAINTIFF'S ATTORNEY OR PLAINTIFF:

ADAM GRANT LAFEVOR
101 LEA AVENUE
NASHVILLE, TN 37210

NOTICE TO THE DEFENDANT:

Tennessee law provides a Ten Thousand and 00/100 Dollars (\$10,000.00) debtor's equity interest personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, of the items you wish to claim as exempt with the Clerk of the Court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by law and do not need to be listed; these include items of necessary wearing apparel (clothing) for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized, you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

CERTIFICATION

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

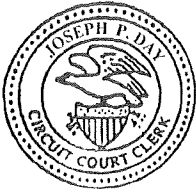
I, Joseph P. Day, Clerk of the Circuit Court in the State and County aforesaid, do hereby certify this to be a true and correct copy of the original summons issued in this case.

rev. 09/01/2022

Service ID 339344

COPY

EFILED 01/24/23 11:35 AM CASE NO. 23C175 Joseph P. Day, Clerk



JOSEPH P. DAY, CLERK

By:

A handwritten signature in black ink, appearing to be "M. B.", written over a horizontal line.

D.C.



To request an ADA accommodation, please contact Trey Collier at (615) 880-3309

Service ID 339344

CIRCUIT COURT SUMMONS

NASHVILLE, TENNESSEE

Service ID 339344

STATE OF TENNESSEE
DAVIDSON COUNTY
20TH JUDICIAL DISTRICT

MIAMI LAND LLC

Plaintiff

vs.

METROPOLITAN GOVERNMENT OF NASHVILLE AND
DAVIDSON COUNTY TENNESSEE
1 PUBLIC SQUARE, SUITE 108
DEPARTMENT OF LAW
NASHVILLE, TN 37201

Defendant

CIVIL ACTION
DOCKET NO. 23C175
Method of Service:
Certified MailRETURN ON SERVICE OF SUMMONS BY MAIL

I hereby certify and return, that on the ____ day of ____, 20__, I sent, postage prepaid by registered return receipt mail or certified return receipt mail, a certified copy of the Summons and a copy of the Complaint/Petition in Docket No. 23C175 to the Defendant, METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY TENNESSEE . On the ____ day of ____, 20__, I received the return receipt for said registered or certified mail, which had been signed by ____ on the ____ day of ____, 20__. Said return receipt is filed with the original Summons Return and both documents are being sent herewith to the Circuit Court Clerk for filing.

SWORN TO AND SUBSCRIBED BEFORE ME, ON THIS
PERSON

____ DAY OF ____, 20__.

PLAINTIFF, PLAINTIFF'S ATTORNEY or OTHER

AUTHORIZED BY STATUTE TO SERVE PROCESS

____ NOTARY PUBLIC or ____ DEPUTY CLERK
MY COMMISSION EXPIRES: _____

To request an ADA accommodation, please contact Trey Collier at (615) 880-3309

COPY

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NASHVILLE, TENNESSEE

Service ID 339344

STATE OF TENNESSEE
DAVIDSON COUNTY
20TH JUDICIAL DISTRICT

MIAMI LAND LLC

Plaintiff

vs.

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DEPARTMENT OF LAW
NASHVILLE, TN 37201

Defendant

CIVIL ACTION
DOCKET NO. 23C175
Method of Service:
Certified Mail

To the above named Defendant:

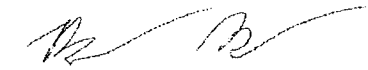
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ISSUED: 01/24/2023

JOSEPH P. DAY
Circuit Court Clerk
Davidson County, Tennessee

By:



Deputy Clerk

ADDRESS OF PLAINTIFF'S ATTORNEY OR PLAINTIFF:

ADAM GRANT LAFAVOR
101 LEA AVENUE
NASHVILLE, TN 37210

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CERTIFICATION

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

I, Joseph P. Day, Clerk of the Circuit Court in the State and County aforesaid, do hereby certify this to be a true and correct copy of the original summons issued in this case.

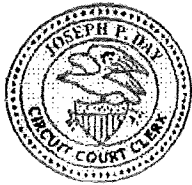
rev. 09/01/2022

Service ID 339344

EFILED 01/31/23 03:17 PM CASE NO. 23C175 Joseph P. Day, Clerk

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EFILED 01/24/23 11:35 AM CASE NO. 23C175 Joseph P. Day, Clerk



JOSEPH P. DAY, CLERK

By:

A handwritten signature in dark ink, appearing to be "JP Day", written over a horizontal line.

D.C.



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Service ID 339344

EFILED 01/31/23 03:17 PM CASE NO. 23C175 Joseph P. Day, Clerk

rev. 09/01/2022

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DAVIDSON COUNTY
20TH JUDICIAL DISTRICT

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Method of Service:
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vs.

METROPOLITAN GOVERNMENT OF NASHVILLE AND
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1 PUBLIC SQUARE, SUITE 108
DEPARTMENT OF LAW
NASHVILLE, TN 37201

Defendant

RETURN ON SERVICE OF SUMMONS BY MAIL

I hereby certify and return, that on the 24 day of January, 2023, I sent, postage prepaid by registered return receipt mail or certified return receipt mail, a certified copy of the Summons and a copy of the Complaint/Petition in Docket No. 23C175 to the Defendant, METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY TENNESSEE. On the 31 day of January, 2023, I received the return receipt for said registered or certified mail, which had been signed by Allison Bussell on the 27 day of January, 2023. Said return receipt is filed with the original Summons Return and both documents are being sent herewith to the Circuit Court Clerk for filing.

SWORN TO AND SUBSCRIBED BEFORE ME, ON THIS
PERSON

31 DAY OF January, 2023

X NOTARY PUBLIC or DEPUTY CLERK
MY COMMISSION EXPIRES: _____

PLAINTIFF, PLAINTIFF'S ATTORNEY or OTHER

AUTHORIZED BY STATUTE TO SERVE PROCESS



To request an ADA accommodation, please contact Trey Collier at (615) 880-3309

rev. 09/01/2022

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| SENDER: COMPLETE THIS SECTION | |
| ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. | |
| 1. Article Addressed to: Metropolitan Government of Nashville and Davidson County, Tennessee 1 Public Square, Suite 108 Department of Law Nashville, Tennessee 37201 | |
| 2. Article Number (Transfer from service label) 7017 3040 0000 1417 2944 | |
| PS Form 3811, July 2015 PSN 7530-02-000-9053 | |
| 3. Service Type <input checked="" type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | |
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| A. Signature X <i>W. Russell</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee | |
| B. Received by (Printed Name) Wilson Russell | |
| C. Date of Delivery 01/27/23 | |
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